

ENTERED

February 12, 2020

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

MAMADOU BAILO DIALLO,
Petitioner,

v.

MICHAEL J. PITTS, *et al.*,
Respondents.

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Civil Action No. 1:19-cv-00216

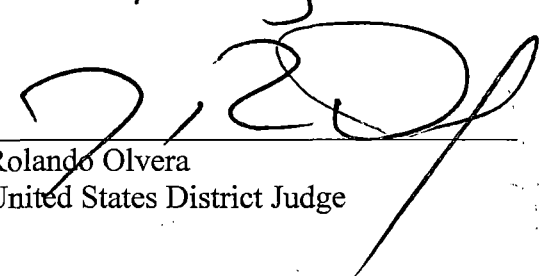
ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the "Magistrate Judge's Report and Recommendation" ("R&R") (Docket No. 13) in the above-captioned case. The R&R recommended the Court: (1) deny Michael J. Pitts *et al.*'s ("Respondents") "Motion to Dismiss" (Docket No. 8), which argues that this Court lacks subject matter jurisdiction; (2) grant in part Mamadou Bailo Diallo's ("Petitioner") "28 U.S.C. § 2241 Petition for Writ of Habeas Corpus" ("Petition") (Docket No. 1); and (3) grant Petitioner's "Opposed Motion to Set Hearing" (Docket No. 12).

Objections were due February 5, 2020. Respondents timely filed their "Respondents' Reply to the Magistrate's Report and Recommendation" (Docket No. 18) conceding the Court has subject matter jurisdiction and requesting the Court allow Respondents to submit a new briefing order. Thus, Respondents are unopposed. A "clearly erroneous, abuse of discretion and contrary to law" standard of review is appropriate when there has been no objection to the magistrate's ruling. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R is **ADOPTED**.

Accordingly, (1) Respondent's Motion to Dismiss (Docket No. 8) is **DENIED**; (2) Petitioner's Petition (Docket No. 1) is **GRANTED IN PART**, to the extent that he seeks an immediate hearing; and (3) Petitioner's Opposed Motion to Set Hearing (Docket No. 12) is **GRANTED**. Respondents will have an opportunity to defend the merits of the constitutional challenge in such hearing.

Signed on this 12th day of February, 2020.


Rolando Olvera
United States District Judge